THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.23856 of 2006

Dated: 27-11-2006

Between:

M/s Nirmala Mineral Water Industry, Chittoor.

..... PETITIONER

AND

The Assistant Divisional Engineer, Chittoor, and another.

.....RESPONDENTS

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ORDER:

The petitioner obtained registration as small-scale industry for manufacturing of mineral water. The ISI registration certificate was issued by the District Industries Centre, Chittoor. The petitioner obtained the necessary electricity connection, being S.C.No.84137 (category II) from respondent No.1 and commenced the enterprise, M/s Nirmala Mineral Water Industry, at Raghavendranagar, S.N. Puram, Tirupati, Chittoor District. The petitioner allegedly complied with item 32 of Appendix B of the Prevention of Food Adulteration Rules, 1955, and also applied for obtaining necessary certification to the Bureau of Indian Standards (BIS). Respondent No.1, purporting to act on the orders of respondent No.2 dated 03-10-2006, issued a letter on 09-11-2006 calling upon the petitioner to produce BIS certificate, in default of which service would be disconnected without giving further notice. Aggrieved by this the present writ petition is filed.

The matter was initially listed before this Court on 20-11-2006 and as the Revenue Divisional Officer(RDO), Tirupathi, who issued direction to respondent No.1, was not a party to the writ petition, this Court *suo motu* impleaded RDO as respondent No.2. This Court also directed the learned Assistant Government Pleader for Revenue (General-A) to produce a copy of the letter/order dated 03-10-2006 issued/passed by respondent No.2. Today, a copy of the same is produced, which would justify the issuance of the impugned letter dated 09-11-2006 to the petitioner.

The learned counsel for the petitioner submits that the petitioner has already applied for BIS certification and pending the grant of such certificate, it is willing to give undertaking not to manufacture or market mineral water. He submits that if the power is disconnected, it would cause hardship because if after getting BIS certificate, the petitioner wants service connection, it has to again comply with all the conditions for restoration of power supply. **Opposing** the writ petition, the learned standing counsel for Southern Power Distribution Company Limited (SPDCL) brought to the notice of this Court Condition 17.2 of the General Terms and Conditions of Supply (GTCS) in support of his contention that when the consumer of electricity requires a licence or permission from any statutory authority if such certificate is not produced, power supply can be disconnected.

Condition 17.2 of GTCS reads as under.

17.2 **Disconnection due to Non-possession of Licence**

> Where the consumer requires a licence or permission from any statutory authority or any authority of the Government to run the business/industry, or permission for lifting of water wherever necessary for purposes of irrigation, or for any other purpose for which he seeks or availing supply of electricity or for locating such business/ industry/ pump set or any other equipment at the place where he is receiving such supply and where the conduct of his said business/ industry/ activity at such place becomes un-lawful by reasons of his failure to obtain initially or secure the continuance of such licence or permission, the Designated Officer of the Company in this regard may, if desired by the concerned statutory or any other competent authority of the Government, after giving notice calling for explanation and after considering the same discontinue supply without forfeiting the rights of the Company under the Agreement with the consumer. Provided that in the cases where specified directions in writing are issued by AP Pollution Control Board in exercise of the powers vested with it under Section 33(A) of the Water (Prevention and Control of Pollution) Act, 1974, to disconnect power supply to any industrial unit, the designated Designated Officer of the Company shall comply with such directions without the necessity of issuance of the notice mentioned in this clause.

A plain reading of the above condition would support the learned standing counsel. Therefore, the impugned letter of respondent No.1 cannot be faulted, especially when this Court is convinced that at the instance of RDO, who is the Sub-Divisional Executive Magistrate, respondent No.1 issued the impugned letter. It is always open to the petitioner to obtain BIS certificate and approach respondent No.1 for restoration of supply. The submission of the learned counsel for the petitioner that pending the grant of BIS certificate, power need not be disconnected cannot be accepted. If the apprehension of the petitioner is compliance of condition of supply/restoration would be onerous, it can always seek redressal before respondent No.1. This Court is inclined to observe that if ultimately, the petitioner is able to get BIS certificate for its mineral water manufacturing unit, respondent No.1 shall restore power supply immediately without insisting upon the payment of security deposit or other charges, provided the petitioner has already paid these charges at the time of availing power supply. It shall, however, be open to respondent No.1 to collect minimum charges as per agreement of supply.

The writ petition, with the above observations, is accordingly dismissed. No costs.

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(**V.V.S.RAO, J**)

27th November, 2006
ghn